

REMARKS

Claims 1–12 are pending before this amendment. Claims 13–20 are added, so claims 1–20 are pending after this amendment. Claims 8 and 11 are objected to, but indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.. Claims 1–7, 9, 10, and 12 stand rejected. Applicants appreciate the indication of allowability for claims 8 and 11.

Claims 1–7, 9, 10, and 12 stand rejected under 35 U.S.C. §102(b) as assertedly anticipated by U.S. Pat. No. 3,028,603 to Rodman. “Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). *See also* MPEP § 2131. “Where there are differences between the referenced disclosure and the claim, a rejection under § 102 is improper.” *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 780 (Fed. Cir. 1985).

Rodman ‘603 does not disclose each and every element of the claimed invention, arranged as in the claim. Because there are differences between Rodman ‘603 and the claim language, applicant respectfully requests withdrawal of the rejections under § 102.

Independent claim 1 of the present application recites “a bracket affixable to the tub skirt.” The Office Action asserts that Rodman ‘603 discloses these elements and the relationship between these elements by citing “a bracket 34 affixable to a tub skirt 15 (via apron 20 or floor 18).” Element 15 is not a tub skirt, as that term is known in the art. Element 15 is a downturned flange. Col. 2, line 18. As recited in claim 1 of the present application, the tub skirt has access openings that the present system covers. The downturned flange 15 of Rodman ‘603 does not have access openings that are to be covered. Rodman ‘603 has no tub skirt.

The element 34 in Rodman ‘603 is a vertical leg that is part of an angular bracket attached to a vertical leg 32. Col. 2, lines 47–50; Figure 2. The vertical leg 32 is part of a bracket 28 that is attached to the floor. Col. 2, lines 44–47. Leg 34 is not affixable to downturned flange 15, as asserted in the Office Action. There is no connection between these elements.

The Office Action further asserts that leg 34 is affixable to downturned flange 15 via the floor 18. While leg 34 is connected to a bracket that is connected to the floor, the downturned flange 15 is not connected to the floor. Downturned flange 15 is part of the tub 10, but the tub 10 is not even connected to the floor. The tub has stringer supports attached to the walls that support the tub such that the bottom of the tub is spaced above the floor. Col. 2, lines 23–26.

The Office Action also asserts that the leg 34 is affixable to downturned flange 15 via the apron 20. To the contrary, it is the flange 33 integral with the leg 34 to which ribs 25 on the apron 20 is detachably connected. Col. 2, lines 53–65. The leg 34 must be affixed *before* the apron 20 can be detachably connected to the leg 34. *See, e.g.*, Fig. 2. And the leg 34 cannot attach to the apron 20 separately from being attached to the vertical leg 32. So the leg 34 cannot be considered to be affixed to the downturned flange 15 *via* the detachable apron 20. Thus, the relationship in the claims of the present application that “a panel is easily attachable to and detachable from said bracket” is not disclosed by the structure of Rodman ‘603.

In short, there is no bracket that is affixable to the tub skirt, as recited in claim 1 of the present application. Moreover, Rodman ‘603 has no tub skirt to which a bracket could be affixed.

Dependent claim 2 recites the “bracket extends around the perimeter of a portion of the tub skirt defining an access opening.” As shown in Figure 1 of Rodman ‘603, the element identified by the Office Action as a bracket 34 does *not* extend around a perimeter of the tub skirt. There is no tub skirt in Rodman ‘603 and there is no access opening defined by a tub skirt. The element (leg) 34 does not extend around the perimeter of downturned flange 15 (identified in the Office Action as corresponding to the tub skirt). Leg 34 extends along a bracket affix to the floor. Rodman ‘603 does not disclose the elements or the arrangement of elements claimed in claim 2.

Independent claim 12 claims “a tub skirt.” Rodman ‘603 does not disclose a tub skirt, as discussed above. Claim 12 further recites “a face portion defining one or more access openings.” The Office Action does not separately address independent claim 12 and identifies no structure in Rodman ‘603 corresponding to a face portion. Claim 12 also recites a “bracket affixable to

said skirt face portion." The above discussion regarding the element identified as a bracket applies for claim 12, as well.

In short, both independent claim 1 and independent claim 12 have elements and arrangements of the elements not disclosed in Rodman '603. There are differences between Rodman '603 and the claims of the present application. Therefore, the rejection under section 102 is improper and applicant respectfully requests withdrawal of the rejection under section 102.

The claims that are dependent from independent claim 1 are believed allowable based on depending from an allowable independent claims, as well as being allowable on their own merits.

Claim 10 has been amended to correct an editorial error. This amendment does not narrow the scope of the claim.

Claims 13-20 have been added to further define the invention.

It is believed that there is no fee associated with the filing and consideration of this amendment. Should the Commissioner decide that any fee is due, the Commissioner is hereby authorized to charge any and all fees incurred as a result of entering this amendment and response to deposit account number 03-0172.

Conclusion

Claims 1-20 are currently pending. In view of the above remarks, it is submitted that claims 1-20 are all in condition for allowance. Prompt notice of allowance of all pending claims is respectfully requested.

Respectfully submitted,

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